REMARKS

In an office action dated April 21, 2005, the Examiner reopened prosecution following an appeal by applicant. In the re-opened prosecution, the previous rejections were withdrawn and the Examiner rejected claims 1-3 and 6-9 under 35 U.S.C 102(e) as anticipated by, or in the alternative, under 35 U.S.C. 103(a) as obvious over Whitefield (WO 02/37345); rejected claims 4-5 under 35 U.S.C. §103(a) as unpatentable over *Whitefield* in view of Kilen, "Lure of Sweepstakes"; rejected claims 4-5 under 35 U.S.C. §103(a) as unpatentable over *Whitefield* in view of Woller, "Senate Oks .. Elderly"; rejected claim 6 under 35 U.S.C. §103(a) as unpatentable over *Whitefield* in view of Torango (US 2003/00600279); rejected claims 21-25, 27 and 28-30 under 35 U.S.C. §103(a) as unpatentable over *Whitefield*; and rejected claim 9, 26 and 31 under 35 U.S.C. §103(a) as unpatentable over *Whitefield*, and further in view of Ziarno (US 6,253,998).

The various prior art rejections are respectfully traversed. All prior art rejections herein rely on *Whitefield*. *Whitefield* does not qualify as a reference under 35 U.S.C. §102(e), either under the older text of 35 U.S.C. §102(e) applicable to filings before November 29, 2000, or under the newer text of 35 U.S.C. §102(e) applicable to filings on or after November 29, 2000.[1]

Whitefield is an international application filed under the Patent Cooperation Treaty (PCT), and designating, among others, the United States. *Whitefield* was filed under the PCT on November 1, 2001, i.e., ***after*** applicant's filing date of February 9, 2001. It is true that *Whitefield* claims priority of an application filed in Australia on November 2, 2000 (before applicant's filing date). However, for purposes of 35 U.S.C. §102(e), *Whitefield*'s effective date as a reference is

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[1] In the office action, the Examiner states that the older version of 35 U.S.C. §102(e) is applicable. This appears to be erroneous, since the international application (as opposed to the Australian application) was filed after November 29,2000. However, it really doesn't matter which version of the statute is applicable; under either version *Whitefield*'s Australian filing is not a reference.

the date on which a PCT application was filed designating the United States. The earlier Australian filing is irrelevant for purposes of 35 U.S.C. §102(e). See *In re Hilmer*, 359 F.2d 859, 149 USPQ 480 (CCPA 1966), and *In re Hilmer* 424 F.2d 1108, 165 USPQ 255 (CCPA 1970).

In view of the foregoing, applicant submits that the claims are now in condition for allowance and respectfully requests reconsideration and allowance of all claims. In addition, the Examiner is encouraged to contact applicant's attorney by telephone if there are outstanding issues left to be resolved to place this case in condition for allowance.

Respectfully submitted,

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